UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Northwest Region
7600 Sand Point Way N.E., Bldg. 1
Seattle, WA 98115

May 7, 2012

Dennis McLerran
Regional Administrator
U.S. Environmental Protection Agency
Region 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

Re: Columbia Generating Station – NPDES permit renewal by State of Washington

Dear Mr. McLerran:

Energy Northwest, owners of the Columbia Generating Station, a nuclear power plant adjacent to the Hanford Reach of the Columbia River, applied to the State of Washington and the Energy Facility Site Evaluation Council (EFSEC) on November 19, 2010, for renewal of a National Pollutant Discharge Elimination System (NPDES) permit for this plant. On January 19, 2010, the owners also applied to the U.S. Nuclear Regulatory Commission (NRC) for a renewal of the plant's operating license. I am writing to initiate coordination between our two agencies regarding the NPDES permit, under procedures called for in the enclosed Memorandum of Agreement (MOA) between Environmental Protection Act (EPA) and the National Marine Fisheries Service (NMFS), ". . . Regarding Enhanced Coordination Under the Clean Water Act [CWA] and Endangered Species Act [ESA]". In particular, NMFS would like to review the state's NPDES permit before it is issued and, if warranted, use procedures set out in the MOA to address concerns related to species protected under the ESA.

Two ESA-listed species of steelhead and salmon inhabit the Hanford Reach in the vicinity of the plant. These species, together with their critical habitats, are likely affected by the plant's operation, in particular by the plant's cooling water intake and effluent discharge facilities. These structures are located in habitat designated as critical for these species pursuant to the ESA. The table below provides the status, listing notice, and critical habitat designation notices for ESA-listed species likely to be affected by the project.

In addition, Middle Columbia River fall Chinook, which spawn in the Hanford reach, are a commercially important species whose habitats are protected under the Magnuson-Stevens Fishery Conservation and Management Act.

Species (ESU or DPS)	Listing	Designated Critical Habitat
Upper Columbia River Spring Chinook	Endangered 6/28/2005 70 FR 37160	9/02/05 70 FR 52630
Upper Columbia River steelhead	Threatened 8/24/09 74 FR 42605	9/02/05 70 FR 52630

The Upper Columbia River Steelhead distinct population segment (DPS) is of particular concern for this plant because adult fish spawn, and juveniles rear, near the plant's intake and discharge structures. It is important that the structures be designed to minimize the entrainment or impingement of fry and juvenile salmonids and any other adverse effects.

The NRC contacted NMFS by letter dated August 23, 2011, requesting a consultation pursuant to ESA §7(a)(2). The NRC advised that it lacks authority to set requirements for the plant's cooling water intake structure and effluent discharges, which are instead governed by the CWA, administered in Washington by EFSEC for large energy developments, subject to your oversight. The NRC encouraged NMFS to contact EFSEC regarding the intake and discharge structures for the plant. I enclose a copy of NRC's December 10, 2011, letter for your reference. The NPDES permit will be an integral part of the NRC license defining the effects of the Columbia Generating Station's operation on steelhead and salmon.

The EFSEC issued an NPDES permit for this project in 2006, and that permit expired May 25, 2011. With Energy Northwest's apparent timely application for renewal, the 2006 permit continues in effect pending permit processing. The 2006 permit did not explicitly address the plant's cooling water intake structures and instead focused on effluent discharges. Under the terms of the CWA, 33 U.S.C. § 1326(b), the next NPDES permit for the Columbia Generating Station must, in addition to regulating effluent discharges, "require that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact." Id.; see also, 40 C.F.R. § 125.90. In particular, in this case, it must provide for the adequate protection of ESA-listed salmonid species consistent with EPA's and NMFS' authorities under the CWA, §§ 303(c), 304(a) and 402, and ESA, §§ 7(a)(2) and 9, respectively.

The 2001 MOA between NMFS and the EPA, which was renewed in 2010, provides procedures for addressing ESA concerns presented by state-issued NPDES permits. See the enclosed copy of this MOA beginning on page 19. The first step in this process, at Section IX (A)(1), is for NMFS to send the state information regarding the ESA-listed species and habitat. Enclosed is our letter to Mr. Jim Luce, Chair of EFSEC, providing that information, requesting copies of any draft NPDES permits, and offering our technical assistance relating to fish protection.

After reviewing the draft NPDES permit, the next step in the MOA process is for NMFS, EPA and the state of Washington to discuss concerns identified in the review. Until we have seen the draft NPDES permits, we cannot determine if we have ESA concerns warranting the further steps in the MOA process. Based on the current design and operation of the cooling water intake structure for this plant, we are concerned that it may pose "more than a minor detrimental effect" to the listed salmonid resources, a standard used by our MOA. The NMFS Northwest Region has developed guidelines for water diversion intake structures that are protective of listed salmonids. These would be a starting point for NMFS' review of the adequacy of any draft